

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CHRISTINE TONEY,

Plaintiff,

-against-

MEMORANDUM & ORDER
15-CV-0561 (JS) (GRB)

PROBATION DEPARTMENT,

Defendant.

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APPEARANCES

For Plaintiff: Christine Toney, pro se
72 Grant Ave.
Brentwood, NY 11717

For Defendant: Elaine M. Barraga, Esq.
Suffolk County Attorney's Office
100 Veterans Memorial Hwy
P.O. Box 6100
Hauppauge, NY 11788

SEYBERT, District Judge:

Pending before the Court is Defendant's motion to dismiss (Docket Entry 9) and Magistrate Judge Gary R. Brown's Report and Recommendation ("R&R"), recommending that this Court grant Defendant's motion. (Docket Entry 12.) For the following reasons, the Court ADOPTS Judge Brown's R&R in its entirety.

BACKGROUND

Pro se plaintiff Christine Toney ("Plaintiff") commenced this action on January 27, 2015 against defendant the Probation Department ("Defendant") alleging that Defendant discriminated and retaliated against her on the basis of race, gender, and age in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C.

§ 2000e et seq. and the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 et seq.

On May 15, 2015 Defendant filed a motion to dismiss the Complaint. (Docket Entry 9.) On October 13, 2015, the undersigned referred Plaintiff's motion to Magistrate Judge Brown for an R&R on whether the motion should be granted. (Docket Entry 10.)

On January 28, 2016, Judge Brown issued his R&R. (Docket Entry 12.) The R&R recommends that the Court grant Defendant's motion dismissing this case, but allow Plaintiff an opportunity to file an Amended Complaint that corrects the deficiencies addressed in the R&R. (R&R at 17.)

DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b) (1) (C). If no timely objections have been made, the "court need only satisfy itself that there is no clear error on the face of the record." Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotation marks and citation omitted).

Objections were due within fourteen days of service of the R&R. The time for filing objections has expired, and no party has objected. Accordingly, all objections are hereby deemed to have been waived.

Upon careful review and consideration, the Court finds Judge Brown's R&R to be comprehensive, well-reasoned, and free of clear error, and it ADOPTS the R&R in its entirety.

CONCLUSION

Judge Brown's R&R (Docket Entry 12) is ADOPTED in its entirety, Plaintiff's motion to dismiss (Docket Entry 9) is GRANTED, and Plaintiff's claims are DISMISSED. **However, Plaintiff is granted leave to file an Amended Complaint in an effort to correct the deficiencies identified in Judge Brown's R&R. Plaintiff shall file an Amended Complaint within thirty (30) days from the date of this Memorandum & Order. If Plaintiff fails to file an Amended Complaint within thirty (30) days, this case will be dismissed with prejudice.**

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: March 4, 2016
Central Islip, New York